

**UNITED STATES BANKRUPTCY COURT**

**FOR THE**

**EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

In the Matter of:

JANICE WOLK GRENADIER

Debtor

Chapter 13

Case No. 13-10791-BFK

**TRUSTEE'S AMENDED MOTION TO DISMISS WITH PREJUDICE**

Thomas P. Gorman, Chapter 13 Trustee, amends his previously filed Motion to Dismiss with Prejudice to state the following:

This is Debtor's 8th bankruptcy filing.<sup>1</sup> Many of Debtor's prior cases have substantial history, Court findings and rulings. *None* of Debtor's previous six Chapter 13 cases have resulted in completion of a Plan, and only one of Debtor's Chapter 13 cases resulted in confirmation of a Plan (98-10042-SSM), which was dismissed almost 14 years ago when the Trustee's Motion to Dismiss was granted by the Court.

The facts and circumstances surrounding Debtor's present Chapter 13 "Plan"<sup>2</sup> warrant dismissal with prejudice to refiling as more fully set forth below. Given that Debtor does not have any form of regular income, coupled with her extensive history of unsuccessful Chapter 13 cases, the lack of progress in her current Chapter 13 case, and Debtor's inability to make a regular mortgage payment for the last three years,

---

<sup>1</sup> Debtor's prior bankruptcy filings and dispositions are summarized as follows:

<u>Case No.</u>	<u>Filing Date</u>	<u>Chap.</u>	<u>Disposition</u>
12-12665-BFK	4/26/12	13	Dismissed 5/15/12 for failure to file Plan & Schedules
09-11348-SSM	2/24/09	13	Dismissed 3/26/09 for failure to obtain credit counseling
08-11841-SSM	4/8/08	13	Voluntarily dismissed 4/28/08
07-11602-SSM	06/22/07	13	Dismissed 8/3/07 for failure to attend 341
00-11592-SSM	4/10/00	7	Discharged 9/25/03
99-81080-SSM	12/9/99	13	Dismissed 3/10/00 for unreasonable delay
98-10042-SSM	1/5/98	13	Plan confirmed; dismissed 11/30/99

<sup>2</sup> Debtor has not even filed a Plan in this case despite being under Court Order to do so. She has filed a document titled, "Chapter 13 Plan," which is simply a recitation of her dealings with the lender and an explanation of why she cannot file a Plan.

**Notice and Motion to Dismiss**

Janice Wolk Grenadier, Case #13-10791-BFK

warrant dismissal with prejudice so as not to force her creditors to continue to bear the burden of Debtor's continual delay. As this Court has previously held, a debtor who files a Chapter 13 case for the sole purpose of staying a foreclosure, without the ability to cure the associated default, is inappropriate.<sup>3</sup>

**I. Violation of 11 U.S.C. §1307(c)(1) – Unreasonable Delay**

In this case, Debtor did not appear at her first Meeting of Creditors on March 19, 2013. Subsequently, by the Court's Order entered May 1, 2013, Debtor was directed to file a modified Plan by May 6, 2013, and attend a rescheduled Meeting of Creditors on May 14, 2013 at 2:30 p.m.

Debtor did not file a Chapter 13 Plan by May 6, 2013, and a Chapter 13 Plan has still not been filed as of the date of this Amended Motion to Dismiss with Prejudice. This case has been pending for nearly four without a Chapter 13 Plan or a single payment by the debtor..

**II. Violation of 11 U.S.C. §109(e) – No Regular Income**

Debtor is unemployed and is not earning any regular income. She testified at her May 14, 2013 Meeting of Creditors that the last time she had any income was in November of 2012.

Debtor also testified that the last time she made a mortgage payment that was accepted was approximately three years ago.

**III. Violation of 11 U.S.C. §1307(e) & §1308(a) – Failure to File Tax Returns**

Debtor has not filed 2011 or 2012 income tax returns. Debtor has not provided Trustee with her 2009 or 2010 tax returns, which Debtor testified were the most recent returns she filed.

**IV. Violation of 11 U.S.C. §1326(a)(1) – Failure to Commence Plan Payments**

---

<sup>3</sup> See *In re Nwonwu*, Case No. 11-12608-SSM, 2011 WL 3586078 (Bankr. E.D.Va. Aug. 12, 2011).

**Notice and Motion to Dismiss**

Janice Wolk Grenadier, Case #13-10791-BFK

Debtor has not made a first Plan payment, which she is required to make under 11 U.S.C. §1326(a)(1) within 30 days of filing her petition.

Date: \_\_June 14, 2013\_\_

\_\_\_/s/ Thomas P. Gorman\_\_\_\_\_

Thomas P. Gorman  
Chapter 13 Trustee  
300 N. Washington Street, #400  
Alexandria, VA 22314  
(703) 836-2226  
VSB 26421

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 14th day of June, 2013, served via ECF to authorized users or mailed a true copy of the foregoing Amended Motion to Dismiss to the following parties.

Janice Wolk Grenadier  
Chapter 13 Debtor  
15 W. Spring Street  
Alexandria, VA 22301

\_\_\_\_/s/ Thomas P. Gorman\_\_\_\_\_  
Thomas P. Gorman